

**PIGGY BACK CONTRACT FOR PRODUCTS AND SERVICES  
FOR THE CITY OF KANSAS CITY, MISSOURI**

**CONTRACT NO.:** EVP3902

**TITLE/DESCRIPTION:** Cooperating School Districts of Greater Kansas City IT Contract # C062518- Dell Products and Services

THIS Contract is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation (“CITY”), and ConvergeOne, Inc., a Minnesota corporation (“CONTRACTOR”).

**Sec. 1. The Contract.** This Contract consists of the following Contract Documents, and in the event of a conflict between the terms contained in each document listed below, the following descending order of precedence shall apply:

- (a) this Piggy Back Contract; and
- (b) CONTRACTOR’s IT Contract # C062518 with the Cooperating School Districts of Greater Kansas City (“the Primary Contract”) that is attached hereto and incorporated into this Contract; and
- (c) any CITY issued Purchase Order to CONTRACTOR that is utilizing the terms and conditions of this Contract; and
- (d) any and all Attachments and Exhibits attached to the Primary Contract.

All documents listed in this Section 1 shall be collectively referred to as the “Contract Documents” and are incorporated into this Contract. CITY and CONTRACTOR agree that the terms “Agreement” and “Contract” and “Contract Documents” are used interchangeably in this Contract and the terms “Agreement” and “Contract” and “Contract Documents” each include all “Contract Documents.”

Attachment A: Scope of Products and Services  
Attachment B: City Support Escalation Contacts  
Attachment C: CREO Contract Assurances Addendum

**Sec. 2. Initial Term of Contract and Additional Periods.**

- (a) **Initial Term.** The initial term of this Contract shall begin on May 8, 2023 and shall end on June 30, 2024. The Manager of Procurement Services is authorized to enter into an amendment of this Contract with CONTRACTOR to extend the term of this Contract and time of performance for this Contract.
- (b) **Renewal Terms.** At any time prior to the expiration of the initial term or any subsequent term, the CITY, in its sole discretion, may renew this Contract as long as the term of the Primary Contract and all renewal terms of the Primary Contract have not expired.
- (c) **Transition Term.** Notwithstanding the expiration of the initial term or any renewal term or all options to renew, CONTRACTOR and CITY shall continue performance under this Contract until the CITY has a new contract in place with either CONTRACTOR or another provider or until the CITY terminates the Contract.

**Sec. 3. Compensation.**

- (a) All Product(s) and Services, to be provided by CONTRACTOR under this Contract shall be ordered by the CITY by means of a Purchase Order issued by the CITY. Notwithstanding Section 3 of this Contract, the CITY does not have any financial obligation under this Contract until the CITY issues a Purchase Order which shall be signed by the CITY's Director of Finance certifying there is a balance, otherwise unencumbered, to the credit of the appropriation to which the expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment will be made, each sufficient to meet the obligation incurred in the Purchase Order.
- (b) Subject to the terms and conditions of this Contract and in consideration for the Total Purchase Price ("Purchase Price") contained in each CITY issued Purchase Order, CONTRACTOR hereby agrees to provide all Products and Services ordered pursuant to a CITY issued Purchase Order in accordance with this Contract.
- (c) CONTRACTOR shall not provide Products or Services in excess of the Purchase Price in the Purchase Order and CONTRACTOR shall not be entitled to any payment in excess of the Purchase Price in the Purchase Order from CITY.

**Sec. 4. Effective Date of Contract.**

- (a) Notwithstanding Section 2 of this Contract, neither party has any obligation under this Contract until the Manager of Procurement Services issues a Purchase Order which shall be signed by the City's Director of Finance certifying there is a balance, otherwise unencumbered, to the credit of the appropriation to which the expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment will be made, each sufficient to meet the obligation incurred in the Purchase Order.
- (b) The date of the first Purchase Order issued by the CITY is the effective date of this Contract.
- (c) The date of the first Purchase Order issued by the CITY after the CITY renews this Contract shall be the effective date of the renewal term or transition term.

**Sec. 5. Invoices.** CITY shall pay CONTRACTOR after CITY determines that the Product(s) supplied and/or Services performed by CONTRACTOR are in conformance with the Contract and the CITY has accepted the Products and Services. To obtain payment for Products and Services supplied by CONTRACTOR pursuant to a CITY issued Purchase Order, CONTRACTOR shall submit to CITY an Invoice in sufficient detail for the CITY to determine that the amount CONTRACTOR is requesting is in fact due and payable. It shall be a condition precedent to payment of any invoice from CONTRACTOR that CONTRACTOR is in compliance with, and not in breach or default of, any terms, covenants and conditions of this Contract. If damages are sustained by CITY as a result of breach or default by CONTRACTOR, CITY may withhold payment(s) to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due CITY from CONTRACTOR may be determined.

**Sec. 6. Representations and Warranties of CONTRACTOR.** CONTRACTOR hereby represents and warrants to the CITY the following:

- (a) CONTRACTOR is in good standing under the laws of the state of Missouri and each state in which it does business, except any such state where the failure to be in good standing would not have a material adverse effect on CONTRACTOR's ability to perform this Contract in accordance with its terms.

- (b) The execution, delivery and performance by CONTRACTOR of this Contract have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of CONTRACTOR's board of directors; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any governmental department, commission, board, bureau, agency or instrumentality, or any third party, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained prior to the date hereof; (iii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect having applicability to CONTRACTOR or its articles or by-laws; and (iv) result in a breach of or constitute a default under any material agreement, lease or instrument to which CONTRACTOR is a party or by which it or its properties may be bound or affected.
- (c) CONTRACTOR shall not enter into any contract for the services to CITY that purports to grant a security interest or right of repossession to any person or entity respecting the services, or any portions thereof or chattels placed thereon.
- (d) There is no litigation, proceeding or other investigation pending or, to the knowledge of CONTRACTOR, threatened against CONTRACTOR which would prevent consummation of the transaction contemplated by this Contract or would have a materially adverse effect on CONTRACTOR.

**Sec. 7. Survival of the Representations, Warranties and Covenants.** All representations, warranties and covenants expressed herein shall survive the execution of this Contract for the benefit of the parties hereto.

**Sec. 8. Risk of Loss.** Only upon delivery of the Product(s) in accordance with the terms of this Contract to the CITY, the CITY shall bear the risk of damage, loss, theft, or condemnation of the Product(s) regardless of cause, and any and all repairs and replacements of the Product(s) or any part thereof shall be at the expense of the CITY subject, however, to the Warranty and other terms of this Contract.

**Sec. 9. Governing Law.** This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The CITY and CONTRACTOR: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum *non conveniens* as an objection to the location of any litigation.

**Sec. 10. Termination for Convenience.** CITY may, at any time upon thirty (30) days written notice to CONTRACTOR specifying the effective date of termination, terminate this Contract, in whole or in part. Unless otherwise agreed upon in a Purchase Order, if this Contract is terminated by CITY, CITY shall be liable only for payment for Product(s) and Services provided by CONTRACTOR before the effective date of termination, provided that any fees pre-paid to CONTRACTOR before the effective date of termination are not refundable.

**Sec. 11. Default and Remedies.**

- (a) If CONTRACTOR shall be in default or breach of any provision of this Contract, CITY may terminate this Contract, suspend CITY's performance, withhold payment or invoke any other legal or equitable remedy after giving CONTRACTOR thirty (30) days written notice and an opportunity to cure such default or breach.
- (b) If CITY shall be in default or breach of any provision of this Contract, CONTRACTOR may terminate this Contract or suspend CONTRACTOR's performance after giving CITY thirty (30) days written notice and an opportunity to cure such default or breach.

**Sec. 12. Waiver.** Waiver by CITY of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of CITY, and forbearance or indulgence by CITY in any regard whatsoever shall not constitute a waiver of same to be performed by CONTRACTOR to which the same may apply and, until complete performance by CONTRACTOR of the term, covenant or condition, CITY shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

**Sec. 13. Acceptance.** No payment made under this Contract shall be proof of satisfactory performance of the Contract, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory Product(s) and Services.

**Sec. 14. Records.**

(a) For purposes of this Section:

1. "CITY" shall mean the CITY Auditor, the CITY's Internal Auditor, the CITY's Director of Human Relations, the CITY Manager, the CITY department administering this Contract and their delegates and agents.
2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.

(b) CONTRACTOR shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. CITY shall have a right to examine or audit all Records, and CONTRACTOR shall provide access to CITY of all Records upon ten (10) days written notice from the CITY.

(c) The books, documents and records of CONTRACTOR in connection with this Contract shall be made available to the CITY Auditor, the CITY's Internal Auditor, the CITY's Director of Human Relations and the CITY department administering this Contract within ten (10) days after the written request is made.

**Sec. 15. RESERVED.**

**Sec. 16. Tax Compliance.** If the total Purchase Price exceeds \$160,000.00 from all Purchase Orders issued by the CITY for the period of May 1<sup>st</sup> through April 30<sup>th</sup>, CONTRACTOR shall provide proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a precondition to the CITY making the first payment under this Contract. CONTRACTOR also shall submit to the CITY proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a condition precedent to the CITY making final payment under the Contract.

**Sec. 17. Buy American Preference.** It is the policy of the CITY that any manufactured goods or commodities used or supplied in the performance of any CITY Contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible.

**Sec. 18. Notices.** All notices to be given hereunder shall be in writing and may be given, served or made by depositing the same in the United States mail addressed to the party to be notified, postpaid and registered or certified with return receipt requested or by delivering the same in person to such person. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in such notice or in this Contract from and after the second day next following the date postmarked on the envelope containing

such notice. Notice given in any other manner shall be effective only if and when received by the party to be notified. All notices shall be sent to the following addresses:

If to the CITY: City of Kansas City, Missouri  
Attention: Darrell Everette, CPSM, MBA, CJP, CPO  
Procurement Services Division  
414 East 12th Street, 1st Floor, Room 102 W  
Kansas City, Missouri 64106  
Telephone: (816) 513-0798  
Facsimile: (816) 513-1066

With copies to: Matthew J. Gigliotti, Esq.  
City Attorney  
Law Department of Kansas City, Missouri  
414 East 12th Street, 23rd Floor  
Kansas City, Missouri 64106  
Telephone: (816) 513-3153

If to the CONTRACTOR: Sarah Maner  
National Account Manager  
ConvergeOne, Inc.  
12980 Foster St #300  
Overland Park, KS 66213  
Telephone: (952) 456-3827

With a copy to: Rui Goncalves  
General Counsel  
ConvergeOne, Inc.  
10900 Nesbitt Avenue South  
Bloomington, MN 55437

## Sec. 19. General Indemnification and Limitation of Liability.

- (a) For purposes of this Section only, the following terms shall have the meanings listed:
1. **Claims** means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the CITY in the enforcement of this indemnity obligation.
  2. **CONTRACTOR's Agents** means CONTRACTOR's officers, employees, subcontractors, successors, assigns, invitees, and other agents.
  3. **CITY** means CITY, its Agencies, its agents, officials, officers and employees.
- (b) CONTRACTOR, at its expense, agrees to defend, indemnify, and hold harmless CITY from Claims arising from suits, claims, actions, or proceedings brought by (or on behalf of) any person or entity on account of (i) injury or damage proximately caused by CONTRACTOR or CONTRACTOR's Agents in the course of performing CONTRACTOR'S obligations under this Contract (or in breach thereof); or (ii) any negligent acts or omissions or willful misconduct of CONTRACTOR or CONTRACTOR's Agents in the performance of CONTRACTOR's obligations under this Contract. This indemnification obligation is conditioned on the CITY promptly notifying CONTRACTOR of any such suit, claim, action, or proceeding. CITY acknowledges that CONTRACTOR shall have the right to control the defense and all negotiations for its settlement

or compromise; provided, however, that CONTRACTOR shall not enter into any settlement that binds CITY in any way without the prior written consent of CITY, which consent shall not be unreasonably withheld, delayed, and/or conditioned.

- (c) THE ENTIRE LIABILITY OF CONTRACTOR AND CONTRACTOR'S AGENT'S AND CITY'S EXCLUSIVE REMEDIES FOR ANY DAMAGES CAUSED BY ANY PRODUCT DEFECT OR FAILURE, OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF ANY SERVICES, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, OR OTHERWISE), SHALL BE (I) FOR FAILURE OF PRODUCTS DURING THE WARRANTY PERIOD, THE REMEDIES STATED IN THE MANUFACTURER'S PRODUCT WARRANTY; (II) FOR DELAYS IN DELIVERY OR INSTALLATION (WHICHEVER IS APPLICABLE) OF MORE THAN SIXTY (60) DAYS BY CAUSES ATTRIBUTABLE SOLELY TO CONTRACTOR OR CONTRACTOR'S AGENTS, UPON THIRTY (30) DAYS' WRITTEN NOTICE FROM CITY TO CONTRACTOR OF SUCH DELAY, AND CONTRACTOR'S FAILURE TO CORRECT SUCH FAILURE WITHIN SUCH NOTICE PERIOD, CITY'S SOLE REMEDY SHALL BE TO TERMINATE THE APPLICABLE PURCHASE ORDER WITHOUT INCURRING CHARGES FOR SUCH TERMINATION AND, WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE OF SUCH TERMINATION, RECEIVE A REFUND OF ALL MONIES PAID UNDER SUCH PURCHASE ORDER; OR (III) FOR CONTRACTOR'S FAILURE TO PERFORM ANY OTHER MATERIAL TERM OF THIS CONTRACT, IF CONTRACTOR DOES NOT CORRECT SUCH FAILURE WITHIN THIRTY (30) DAYS AFTER RECEIPT OF WRITTEN NOTICE ADDRESSING SUCH FAILURE, CITY'S SOLE REMEDY SHALL BE TO TERMINATE THE APPLICABLE PURCHASE ORDER WITHOUT INCURRING CHARGES FOR SUCH TERMINATION AND, WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE OF SUCH TERMINATION, RECEIVE A REFUND OF ALL MONIES PAID UNDER SUCH PURCHASE ORDER.

NEITHER PARTY IN ANY CASE SHALL BE LIABLE TO THE OTHER PARTY FOR PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SAVINGS, OR LOST REVENUES OF ANY KIND; LOST, CORRUPTED, MISDIRECTED, OR MISAPPROPRIATED DATA; NETWORK DOWNTIME; INTERRUPTION OF BUSINESS ARISING OUT OF OR IN CONNECTION WITH PERFORMANCE OR NON-PERFORMANCE OF THE PRODUCTS OR USE BY CITY; CHARGES FOR COMMON CARRIER TELECOMMUNICATIONS SERVICES; COST OF COVER; OR CHARGES FOR FACILITIES ACCESSED THROUGH OR CONNECTED TO THE PRODUCTS ("TOLL FRAUD")). THE PREVIOUS SENTENCE APPLIES REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- (d) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

## **Sec. 20. Insurance.**

- (a) CONTRACTOR shall procure and maintain in effect throughout the term of this Contract insurance policies with coverage not less than the types and amounts specified in this Section. CONTRACTOR must have:
1. Commercial General Liability Insurance Policy: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
    - a. Severability of Interests Coverage applying to Additional Insureds
    - b. Contractual Liability

- c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000
  - d. No Contractual Liability Limitation Endorsement
  - e. Additional Insured Endorsement, ISO for CG20 10, current edition, or its equivalent
- 2. Workers' Compensation Insurance and Employers Liability Policies as required by Missouri law.
- 3. Commercial Automobile Liability Insurance Policy: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. The Policy shall provide coverage on an "any auto" basis and on an "occurrence" basis. This insurance policy will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by CONTRACTOR.
- 4. If this Contract is for professional services, CONTRACTOR shall obtain Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
- 5. Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- 6. Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
  - a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Vendor. If not covered under the Vendor's liability policy, such "property" coverage of the Agency may be endorsed onto the Vendor's Cyber Liability Policy as covered property as follows:
  - b. If the Vendor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
- (b) All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the CITY ten (10) days written notice of cancellation in the event that the cancellation is for CONTRACTOR's nonpayment of premiums and thirty (30) days written notice of cancellation to CITY for all other reasons of cancellation.
- (c) The Commercial General and Automobile Liability Insurance Policies specified above shall provide that CITY and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. CONTRACTOR shall provide to CITY at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.
- (d) All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of A-, V or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.

- (e) Regardless of any approval by CITY, CONTRACTOR shall maintain the required insurance coverage in force at all times during the term of this Contract. CONTRACTOR's failure to maintain the required insurance coverage will not relieve CONTRACTOR of its contractual obligation to indemnify the CITY pursuant to Section 19 of this Contract. In the event CONTRACTOR fails to maintain the required insurance coverage in effect, CITY may declare CONTRACTOR in default.
- (f) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

**Sec. 21. Interpretation of the Contract.** The order of precedence of the Contract Documents are as stated in Section 1 of this Contract. The CITY's Manager of Procurement Services shall resolve all disagreements or any ambiguity in this Agreement. The decision of CITY's Manager of Procurement Services shall be final and conclusive if the Manager of Procurement Services acted in good faith.

**Sec. 22. Contract Execution.** This Contract may be executed in one or more counterparts, each of which will be deemed an original copy of this Contract and all of which, when taken together, will be deemed to constitute one and the same Contract. This Contract shall be effective upon the execution of counterparts by both parties, notwithstanding that both parties may not sign the same counterpart. The parties' signatures transmitted by facsimile or by other electronic means shall be proof of the execution of this Contract and shall be acceptable in a court of law.

**Sec. 23. Guaranteed Lowest Pricing.** CONTRACTOR certifies that the Primary Contract contains CONTRACTOR's lowest and best pricing for all Product(s) supplied by CONTRACTOR to any government, governmental entity, political subdivision, city, state, school district or any other public entity in the United States as of the date of this Contract.

**Sec. 24. Assignability and Subcontracting.**

- (a) Assignability. Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of City. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.
- (b) Subcontracting. Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City. If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and Contractor shall remain responsible to City for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

**Sec. 25. Intentionally Removed.**



**Sec. 26. Compliance with Laws.** CONTRACTOR shall comply with all federal, state and local laws, ordinances and regulations applicable to all the Product(s) and Services to be provided by CONTRACTOR to the CITY in this Contract.

**Sec. 27. Employee Eligibility Verification.** If this Contract exceeds five thousand dollars (\$5,000.00), CONTRACTOR shall execute and submit an affidavit, in a form prescribed by CITY, affirming that CONTRACTOR does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U. S. C. § 1324a(h)(3). CONTRACTOR shall attach to the affidavit documentation sufficient to establish CONTRACTOR'S enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986.

CONTRACTOR may obtain additional information about E-Verify and enroll at <https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES>. If CONTRACTOR is enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that CONTRACTOR will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this Section. CONTRACTOR shall submit the affidavit and attachments to the CITY prior to execution of the Contract, or at any point during the term of the Contract if requested by CITY.

**Sec. 28. RESERVED.**

**Sec. 29. RESERVED.**

**Sec. 30. RESERVED.**

**Sec. 31. RESERVED.**

**Sec. 32. Manner of Delivery.** Delivery of software and related documentation shall be made electronically.

**Sec. 33. Quality.** Unless otherwise required by terms of the solicitation, all goods, supplies, and materials furnished shall be new, in current production, and the best of their kind. When applicable, maintenance shall be reasonably available.

**Sec. 34. Price.** Prices quoted are to be firm and final, subject to the mutual agreement of the parties to add software and services as requested and available via contract amendment. All prices quoted shall be net and shall reflect any available discount except for discounts for timely payment.

**Sec. 35. RESERVED.**

**Sec. 36. Commercial Warranty.** The CONTRACTOR agrees that the supplies or services furnished under this Contract shall be covered by the most favorable commercial warranties the CONTRACTOR gives to any customer for such supplies or services, and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the CITY by any other clause of this Contract.

**Sec. 37. RESERVED**

**Sec. 38. Sellers Invoice.** Invoices shall be prepared and submitted in duplicate to address shown on the purchase order. CONTRACTOR shall make commercially reasonable efforts to issue separate Invoices for each purchase order. Invoices shall contain the following information, to the extent applicable: purchase order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price, and extended totals.

**Sec. 39. RESERVED.**

**Sec. 40. RESERVED.**

**Sec. 41. RESERVED.**

**Sec. 42. Tax Exemption - Federal and State.**

- (a) The CITY is exempt from Federal Excise and Transportation taxes on purchases under Chapter 32, Internal Revenue Code. The federal tax registration number issued by the St. Louis District Director on November 11, 1974 is No. 43740340K.
- (b) The CITY is exempt from payment of Missouri Sales and Use Tax in Accordance with Section 39(10) Article 3, of the Missouri Constitution and Sections 144.040 and 144.615 RSMo 1969 and supplement thereto. A copy of the exemption from Missouri Sales and Use Tax is available upon request.

**Sec. 43. Annual Appropriation of Funds.**

- (a) Multi-year term supply and service contracts and leases, and the exercise of options to renew term contracts, are subject to annual appropriation of funds by the City Council. Payments made under term contracts and leases are considered items of current expense. Purchase orders are funded when issued, therefore are current expense items and are not subject to any subsequent appropriation of funds.
- (b) In the event sufficient funds are not appropriated for the payment of lease payments or anticipated term contract payments required to be paid in the next occurring lease or contract term and if no funds are legally available from other sources, the lease or contract may be terminated at the end of the initial term. Upon such termination, CITY shall remit payment for all products and services delivered to CITY, and all expenses incurred by CONTRACTOR, through CONTRACTOR'S receipt of CITY'S intent to termination for nonappropriation. CITY will not be entitled to a refund or offset of previously paid license and other fees.

**CONTRACTOR**

I hereby certify that I have the authority to execute  
this document on behalf of CONTRACTOR.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

\_\_\_\_\_  
Assistant City Attorney (Date)

**KANSAS CITY, MISSOURI**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **ATTACHMENT A: Scope of Products and Services**

This Contract shall apply to sales of the following to CITY:

- (a) All hardware, third party software, and/or CONTRACTOR software (collectively, "Products");
- (b) All installation services, professional services, and/or third party provided support services that are generally associated with the Products and sold to CITY by CONTRACTOR ("Professional Services");
- (c) All CONTRACTOR-provided vendor management services, software release management services, remote monitoring services and/or, troubleshooting services (collectively, "Managed Services"); and/or
- (d) All CONTRACTOR-provided maintenance services ordered by CITY to maintain and service supported products or supported systems at supported sites (as defined in a CITY Purchase Order to ensure that they operate in conformance with their respective documentation and specifications ("Maintenance Services").

For purposes of this Contract, Professional Services, Managed Services and Maintenance Services may be referred to collectively as "Services."

## ATTACHMENT B- CITY SUPPORT ESCALATION CONTACTS

The CONTRACTOR'S day to day point of contact for operational and service/technical related issues is the CONTRACTOR Project Manager.

CONTRACTOR'S senior management points of contact for operations and implementation are:

John Hill  
Area Sales Leader  
(651) 796-6409  
JHill@convergeone.com

CONTRACTOR'S day to day point of contact for contract related issues is:

Sarah Maner  
National Account Manager  
(952) 456-3827  
Maher@convergeone.com

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The City's day to day point of contact for operational/service/technical related issues is:

Alan Williams  
IT Manager  
816-513-  
[Alan.j.williams@kcmo.org](mailto:Alan.j.williams@kcmo.org)

Tracey Roland  
IT Manager  
816-513-6658  
[Tracey.roland@kcmo.org](mailto:Tracey.roland@kcmo.org)

The City's day to day point of contact for contract related issues is:

Keely Golden, CPPB,  
Procurement Manager, Procurement Services Division  
816-513-0812  
[keely.golden@kcmo.org](mailto:keely.golden@kcmo.org)

**ATTACHMENT C- CONTRACT ASSURANCES ADDENDUM**

## **Civil Rights and Equal Opportunity Department Civil Rights and Wage Assurances**

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**Non-discrimination in Employment.** Contractor shall not discriminate against any employee or candidate for employment on the basis of an individual's race, hair texture or hair style associated with an individual's race, color, sex, religion, national origin, or ancestry, disability, sexual orientation, gender identity, age, or in any other manner prohibited by Chapter 38 of the City Code. Contractor shall not engage in any discrimination as prohibited by Chapter 3 of the City Code.

**Ban the Box in Hiring and Promotion.**

(a) Pursuant to Section 38-104, City Code Ordinances, Contractor shall not base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, unless the employer can demonstrate that the employment-related decision was based on all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position.

(b) Notwithstanding subsection (a), Contractor may inquire about an applicant's criminal history after it has been determined that the individual is otherwise qualified for the position, and only after the applicant has been interviewed for the position. Any such inquiry may be made of all applicants who are within the final selection pool of candidates from which a job will be filled.

(c) This provision shall not apply to positions where employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation.

**Title VI of the Civil Rights Act of 1964.** Title VI of the Civil Rights Act of 1964 requires that no person in the United States shall, on the grounds of race, color, or national or origin (including limited English proficient individuals), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The City of Kansas City, Missouri requires compliance with the requirements of Title VI in all of its programs and activities regardless of the funding source.

Contractor shall not discriminate on the grounds of race, color, or national or origin (including limited English proficient individuals).

**Quality Services Assurance Act.** If this Contract exceeds \$160,000.00, Contractor certifies Contractor will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$15.00 per hour in compliance with the City's Quality Services Assurance Act,



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Section 3-66, Code of Ordinances or City has granted Contractor an exemption pursuant to the Quality Services Assurance Act.

**Anti-Discrimination Against Israel.** If this Contract exceeds \$100,000.00 and Contractor employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Contractor certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

**Affirmative Action.** If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- (a) Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- (b) Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years.
- (c) Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- (d) Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or

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electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, cancelled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

**Compliance with Laws.** Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement. Contractor shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.

**Prevailing Wage.** If the Agreement exceeds \$75,000.00 and any of the Services performed by Contractor includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair, that is subject to the Missouri Prevailing Wage Law (Section 290.210, RSMo – 290.340, RSMo), Contractor shall immediately notify the City prior to performing Services so the parties can execute an agreement that incorporates, the appropriate Wage Order. Contractor shall comply with all requirements of Section 290.210, RSMo – 290.340, RSMo even if Contractor fails to notify the City.